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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/632,775

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Stanley J. Kostoff, II

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07/27/2006

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EXAMINER

LAZARO, DAVID R

ART UNIT

PAPER NUMBER

2155

DATE MAILED: 07/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/632,775

Applicant(s)

KOSTOFF, II ET AL.

Examiner

David Lazaro

Art Unit

2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is in response to the amendment filed 04/18/06.
2. Claims 1-6 are pending in this office action.

Response to Amendment/Arguments

3. Applicant's arguments with respect to claims 1-6 have been considered but are moot in view of the new ground(s) of rejection.
4. The rejection of claim 4 as being rejected under 35 U.S.C. 112, second paragraph, is withdrawn. However, the rejection of claim 1 under 35 U.S.C. 112, second paragraph, is maintained and clarified in view of applicant's remarks.

Claim Rejections - 35 USC § 112

5. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
6. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are: Claim 1 states "receiving on the transmission medium a first frame transmission having a destination address corresponding to the station" and "transmitting on the transmission medium a second frame transmission...". According to these limitations, the first frame and second frame are only received and transmitted on the transmission medium. As such, it is not clear

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as to how the claimed subject matter supports a method of operating a station according to a media access control protocol when a station is neither receiving nor transmitting the frame transmissions involved. Applicant did remark on page 1 of the 04/18/06 remarks, that claim 1 refers to a "method of operating a station," and thus the "receiving" and "transmitting" steps are clearly steps in operating a station. However, a preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951). It would seem essential that the first frame transmission should be received at the station and that the second frame transmission is transmitted from the station if the body of the claim is to correspond with the purpose outlined in the preamble.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-6 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent 6,510,156 by Brock et al. (Brock).

9. With respect to Claim 1, Brock teaches in a network of stations interconnected by a transmission medium, a method of operating a station according to a media access control protocol comprises:

receiving on the transmission medium a first frame transmission having a destination address corresponding to the station (Col. 10 line 47 - Col. 11 line 5 and Fig. 2b); and

transmitting on the transmission medium a second frame transmission including information from the first frame transmission other than the destination address, the information from the first frame transmission occupying fewer bits than the destination address but being sufficiently unique to the first frame transmission as to convey that the second frame transmission is a response to the first frame transmission (Col. 10 line 47 - Col. 11 line 5 and Fig. 2b).

10. With respect to Claim 2, Brock further teaches wherein the first frame transmission includes a frame check sequence and the information in the second frame transmission includes a received frame check sequence field for specifying at least a portion of the frame check sequence in the first frame transmission and is to be used to determine that the second frame transmission is a response to the first frame transmission (Col. 10 line 47 - Col. 11 line 5 and Fig. 2b).

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11. With respect to Claim 3, Brock further teaches all the limitations of Claim 1 and further teaches the first frame transmission includes an indication that a response is expected (Col. 10 line 47 - Col. 11 line 5 and Fig. 2b).

12. With respect to Claim 4, Gleeson teaches in a network of stations interconnected by a transmission medium, a media access control unit in a station comprising:

a receive handler to receive on the transmission medium a first frame transmission having a destination address corresponding to the station (Col. 10 line 47 - Col. 11 line 5 and Fig. 2b); and

transmit handler to transmit on the transmission medium a second frame transmission including information from the first frame transmission other than the destination address, the information from the first frame transmission occupying fewer bits than the destination address but being sufficiently unique to the first frame transmission as to convey that the second frame transmission is a response to the first frame transmission (Col. 10 line 47 - Col. 11 line 5 and Fig. 2b).

13. With respect to Claim 5, Gleeson teaches all the limitations of Claim 4 and further teaches wherein the first frame transmission includes a frame check sequence and the information in the second frame transmission includes a received frame check sequence field for specifying at least a portion of the frame check sequence in the first frame transmission and is to be used to determine that the second frame transmission is a response to the first frame transmission (Col. 10 line 47 - Col. 11 line 5, and Fig. 2b - HEC field).


14. With respect to Claim 6, Gleeson teaches all the limitations of Claim 5 and further teaches the first frame transmission includes an indication that a response is expected (Col. 10 line 47 - Col. 11 line 5 and Fig. 2b).

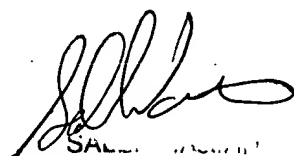
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Lazaro whose telephone number is 571-272-3986. The examiner can normally be reached on 8:30-5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on 571-272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


David Lazaro
July 19, 2006


SALEH NAJJAR
SUPERVISORY PATENT EXAMINER